

ingredient, and its label failed to bear, in such manner and form as such regulations specify, a statement that it fell below the standard.

On October 1 and November 8, 1943, the Perry Canning Co. having appeared as claimant for the lots at Twin Falls and Boise, and the libel proceedings against the lots at Twin Falls having been consolidated, orders were entered releasing the product under bond for sorting, repacking, and relabeling. On February 14, 1944, the Perry Canning Co., claimant, having admitted the allegations of the libel against the lot at Pocatello, judgment of condemnation was entered and the product was ordered released under bond to be relabeled in conformance with the law.

**5711. Misbranding of canned cherries. U. S. v. 104 Cases of Canned Cherries. Product ordered released under bond to be sorted, repacked, and relabeled. (F. D. C. No. 10783. Sample No. 36158-F.)**

On September 16, 1943, the United States attorney for the District of Idaho filed a libel against 104 cases of canned cherries at Twin Falls, Idaho, alleging that the article had been shipped in interstate commerce on or about August 6, 1943, by the John Scowcroft and Sons Co. from Ogden, Utah; and charging that it was misbranded. It was labeled in part: (Cans) "Kitchen King Brand \* \* \* Red Sour Pitted Cherries."

The article was alleged to be misbranded in that it purported to be and was represented as canned cherries (red sour pitted), a food for which a standard of quality has been prescribed by regulations promulgated pursuant to law, but its quality fell below such standard since more than 1 pit was present in each 20 ounces as determined by the method prescribed in the regulations, and its label failed to bear, in such manner and form as the regulations specify, a statement that it fell below such standard.

On October 1, 1943, the Perry Canning Company having appeared as claimant, the product was ordered released under bond to be sorted, repacked, and relabeled under Federal supervision.

**5712. Misbranding of canned pears. U. S. v. 74 Cases of Canned Pears. Consent decree of condemnation. Product ordered released under bond for relabeling. (F. D. C. No. 11230. Sample No. 29699-F.)**

This product was packed in light sirup and not heavy sirup, as declared on the label.

On December 6, 1943, the United States attorney for the Southern District of New York filed a libel against 74 cases, each containing 24 cans, of pears at Kingston, N. Y., alleging that the article had been shipped on or about November 4, 1943, from Campbell, Calif., by the Drew Canning Co.; and charging that it was misbranded. The article was labeled in part: (Cans) "Cheerio Brand Halves Bartlett Pears in Heavy Syrup \* \* \* Distributed By F. B. Matthews & Co., Inc. Kingston, N. Y."

The article was alleged to be misbranded in that the statement on its label "in Heavy Syrup" was false and misleading as applied to canned pears packed in sirup designated in the regulations as "light sirup."

On June 9, 1944, the Drew Canning Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for relabeling under the supervision of the Federal Security Agency.

**5713. Misbranding of canned pears. U. S. v. 282 Cases of Canned Pears. Consent decree of condemnation. Product ordered released under bond to be relabeled. (F. D. C. No. 10734. Sample No. 11947-F.)**

On September 13, 1943, the United States attorney for the Western District of Oklahoma filed a libel against 282 cases, each containing 24 cans, of pears at Oklahoma City, Okla., alleging that the article had been shipped in interstate commerce on or about August 19, 1943, by the A. M. Beebe Co. from San Francisco, Calif.; and charging that it was misbranded. It was labeled in part: (Cans) "Nickey Halves in Water Bartlett Pears \* \* \* Distributed by Chevy Chase Co. San Jose, Calif."

The article was alleged to be misbranded in that it purported to be and was represented as a food for which a standard of quality has been prescribed by regulations promulgated pursuant to law, and its quality fell below the standard since all units were not untrimmed or trimmed as to preserve normal shape, and more than 10 percent, in some cans, were crushed or broken, whereas the standard of quality for pears prescribed by the regulations provides that all

units shall be untrimmed or trimmed to preserve the normal shape, and that not more than 10 percent shall be crushed or broken; and the label failed to bear, in the manner and form as the regulations specify, a statement that the article fell below the standard.

On October 6, 1943, the Griffin Grocery Co., Oklahoma City, Okla., claimant, having admitted the allegations of the libel, judgment of condemnation was entered, and the product was ordered released under bond to be brought into compliance with the law by relabeling under the supervision of the Food and Drug Administration.

#### FRESH AND FROZEN FRUIT

Nos. 5714 to 5719 report actions involving apples that bore excessive spray residue containing arsenic or lead, or both.

**5714. Adulteration of apples. U. S. v. 100 Bushels of Jonathan Apples. Decree of condemnation. Product ordered released under bond for reconditioning.** (F. D. C. No. 10894. Sample No. 43555-F.)

On or about September 17, 1943, the United States attorney for the Western District of Missouri filed a libel against 100 bushels of Jonathan apples at Kansas City, Mo.; alleging that the article had been shipped in interstate commerce on or about August 20, 1943, by Don F. Rau from Springdale, Ark.; and charging that it was adulterated in that it contained an added poisonous or deleterious substance, lead, which might have rendered it injurious to health. The article was labeled in part: (Baskets) "Jonathan Apples No. 1 Packed by Lowell Fruit Co., Springdale, Ark."

On October 15, 1943, E. E. Fadler Company, agent for the Lowell Fruit Co., having appeared as claimant, judgment of condemnation was entered and the product was ordered released under bond to be reconditioned by cleansing or peeling under the supervision of the Food and Drug Administration. The apples were satisfactorily reworked and the peelings were destroyed.

**5715. Adulteration of apples. U. S. v. 93 1-Bushel Baskets of Apples. Default decree of condemnation and destruction.** (F. D. C. No. 10804. Sample No. 9851-F.)

On or about September 2, 1943, the United States attorney for the Western District of Louisiana filed a libel against 93 1-bushel baskets of apples at Shreveport, La., alleging that the article had been shipped on or about August 26, 1943, by G. M. Huson of Shreveport, La., from Springdale, Ark.; and charging that it was adulterated in that it contained an excessive amount of arsenic and lead.

On October 20, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**5716. Adulteration of apples. U. S. v. 75 Boxes and 11 Boxes of Apples. Consent decree of condemnation. Product ordered released under bond for salvage.** (F. D. C. No. 11041. Sample Nos. 47133-F, 47136-F.)

On October 16, 1943, the United States attorney for the Northern District of Illinois filed a libel against 86 boxes of apples at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about September 30, 1943, by Driver & Woodrow, from Wenatchee, Wash.; and charging that it was adulterated in that it contained an added poisonous or deleterious substance, lead, which might have rendered it injurious to health. The article was labeled in part: (Box) "Ex Fancy & Fancy \* \* \* Jonathan \* \* \* Ox Team \* \* \* Grown by Wenatchee Wagner Orchards Wagnersburg Washington."

On October 19, 1943, the Riley-McFarland Co., claimant, having admitted the facts set forth in the libel, judgment of condemnation was entered and the product was ordered released under bond for salvage under the supervision of the Food and Drug Administration. On October 20, 1943, an amended decree was entered nunc pro tunc as of October 19, containing identical provisions with the exception that the bond was reduced from \$2,800 to \$700. The product was sold to a pie baker for use in pies, after having been satisfactorily reconditioned.

**5717. Adulteration of apples. U. S. v. 15 Bushels of Jonathan Apples. Default decree of condemnation. Product ordered delivered to a government agency.** (F. D. C. No. 11039. Sample No. 47108-F.)

On October 15, 1943, the United States attorney for the Northern District of Illinois filed a libel against 15 bushels of Jonathan apples at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about September